



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

MAR 1 8 2003

VIA CERTIFIED MAIL (NUMBER 7001 0360 0003
6670 0184)
RETURN RECEIPT REQUESTED
URGENT LEGAL MATTER; PROMPT REPLY REQUESTED

David L. Hatcher
Registered Agent for KMG - Bernuth, Inc.
10611 Harwin, STE. 400
Houston, TX 77036

Re: Request for Information Pursuant to Section 104 of CERCLA (42 U.S.C. Section 9604)
Owners/Operators
Star Lake Canal Superfund Site
Jefferson County, Texas

Dear Sir or Madam:

The U. S. Environmental Protection Agency (EPA) is currently investigating the releases or threatened releases of hazardous substances, pollutants, or contaminants at the Star Lake Canal Superfund Site (hereinafter "the Site"), in the proximity of Groves, Texas. This letter seeks your cooperation in providing information and documents relating to the contamination of the Site.

The EPA is seeking to obtain information concerning the release of hazardous substances, pollutants, or contaminants that have been released into the Site. The EPA plans to study the effects of these substances on the environment and public health. In addition, EPA will identify activities, materials, and parties that contributed to contamination at the Site. The EPA believes that you may have information which may assist in our investigation of the Site. We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to each of the questions included in Enclosure A (Information Request, Star Lake Canal Superfund Site), within thirty (30) calendar days of your receipt of this letter. Enclosure B lists parties who are also receiving Information Request letters concerning the Site.



SITE BACKGROUND

The Site, which includes two industrial waste canals, the Star Lake Canal and the Jefferson Canal¹, and Molasses Bayou is located in Jefferson County, Texas, in the cities of Port Neches and Groves. The Site is defined as the lengths of these two industrial canals from their origins to the confluence of the Star Lake Canal with the Neches River. The straight line distance along the Star Lake Canal from its origin east of the intersection of Highway 136 and FM 366 to its confluence with the Neches River is approximately 16,500 feet. The straight line distance along the Jefferson Canal from its origin on the east side of Hogaboom Road South of FM 366 to its confluence with the Star Lake Canal north of the Hurricane Protection Levee is approximately 4,000 feet. The Groves Drainage Ditch extends approximately 500 feet between its origin in a surface impoundment south of FM 366 to its confluence with the Jefferson Canal at FM 366. Between Sara Jane Road 9 (aka Port Neches Avenue) and the river, the Star Lake Canal crosses marshes and intersects the Molasses Bayou in two locations.

The Texas Natural Resource Conservation Commission collected sediment samples in 1996 and 1998 from Star Lake Canal, Jefferson Canal, and Molasses Bayou and found elevated concentrations of chromium, copper, polynuclear aromatic hydrocarbons (PAHs), and polychlorinated biphenyls (PCBs) in the canal sediments and elevated concentrations of copper, PAHs, and pesticides in the Molasses Bayou wetlands. The known area of contaminated sediments extends more than 2 miles, spanning portions of the canals and the bayou to within 1/4 of a mile of the convergence with the Neches River.

DESCRIPTION OF LEGAL AUTHORITY

The Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (CERCLA), 42 U.S.C. §§ 9601 *et. seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986, gives EPA authority to, among other things: (1) assess contaminated sites; (2) determine the threats to human health and the environment posed by each site; and, (3) clean up those sites. The CERCLA also provides EPA with several methods of obtaining various types of information from a wide range of entities. Section 104(e), entitled "Information Gathering and Access," grants EPA authority to issue "Information Requests."

¹The Star Lake Canal is also known as the Defense Plant Corporation Canal, the Neches Butane Outfall Canal, the Neches Butane Products Company Outfall Canal, and the Texaco Chemical Outfall Canal. The Jefferson Canal is also known as the Texaco Chemical Company Outfall Canal, the Jefferson County Canal, the Star Lake Outfall Canal, and the Texaco Chemical Company Stormwater Canal.

INFORMATION REQUESTS

Under Section 104(e)(2) of CERCLA, 42 U.S.C. Section 9604(e)(2), EPA has broad information gathering authority which allows it to require persons to furnish information or documents relating to:

- (A) The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility or transported to a vessel or facility; and,
- (B) The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at or from a vessel or facility.

While EPA seeks your cooperation in this investigation, compliance with the Information Request is required by law. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under Federal law. Although you may consider some of the information EPA is requesting to be confidential, please be aware that you may not withhold the information upon that basis. If you wish EPA to treat the information confidentially, you must advise EPA of that fact by following the procedures outlined in Enclosure A, including the requirement for supporting your claim for confidentiality. If you have information about other parties who may have information which may assist EPA in its investigation of the Site or may be responsible for the contamination at the Site, that information should be submitted along with this Information Request.

Your response to the questions included in Enclosure A, including any "technical" questions regarding the scope of the Information Request or questions you may have about the Site, should be directed to:

Mr. Rafael A. Casanova, Remedial Project Manager
U.S. Environmental Protection Agency, Region 6
Superfund Division (6SF-AP)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
Telephone: (214) 665-7437
Facsimile: (214) 665-6660
E-Mail: casanova.rafael@epa.gov

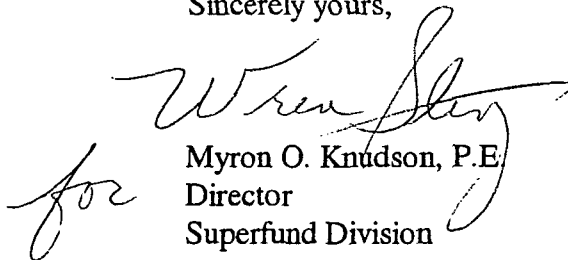
Specific "legal" questions concerning this Information Request or the Site should be directed to:

Mr. Edwin Quinones, Attorney
U.S. Environmental Protection Agency, Region 6
Office of Regional Counsel (6RC-S)
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733
Telephone: (214) 665-8035
Facsimile: (214) 665-6460
E-Mail: quinones.edwin@epa.gov

CONCLUSION

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to each of the questions included in Enclosure A within thirty (30) calendar days of your receipt of this letter. Please contact Mr. Edwin Quinones if you need additional time to prepare a response. Thank you in advance for your cooperation in responding to this Information Request. We are looking forward to working closely with you in the future.

Sincerely yours,


for Myron O. Knudson, P.E.
Director
Superfund Division

Enclosures (2)

cc: Mr. Mark Vickery (Deputy Director)
Office of Permitting, Remediation and Registration
Texas Commission on Environmental Quality

ENCLOSURE A
INFORMATION REQUEST
STAR LAKE SUPERFUND SITE
JEFFERSON COUNTY, TEXAS

This Information Request asks that you provide certain information regarding the Star Lake Superfund Site (hereinafter "the Site") in Jefferson County, Texas. The U.S. Environmental Protection Agency (EPA, Region 6) is currently seeking information relating to the identification, nature, and quantity of materials which have been released into the Site, and the nature or extent of the release or threatened release of hazardous substances or pollutants or contaminants into the Site.

Compliance with this Information Request is mandatory and required by Federal law. Failure to respond fully and truthfully to the Information Request within thirty (30) calendar days of receipt may result in the initiation of enforcement action by EPA pursuant to Subsection 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. § 9604(e). The CERCLA permits EPA to seek the imposition of penalties of up to twenty-seven thousand, five hundred dollars (\$27,500) for each day of continued non-compliance. Furnishing false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. Should you find that any portion of your submission is incorrect or false, you should notify EPA as soon as possible. This Information Request is not subject to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501, et seq.

Following are the "instructions" that you should adhere to in responding to this Information Request, the "definitions" that apply to the words as they appear in this Information Request, and the "Questions" that you should provide a response for as part of this Information Request. Unless otherwise indicated, the time period covered by this request is 1940 to the present.

INSTRUCTIONS

Following are the instructions you should adhere to in responding to this Information Request. Please refer to the definitions for the words as they appear in this Information Request.

1. Identify the person(s) answering the Questions on behalf of the Respondent and each person(s) that you relied on or consulted in the preparation of the answer.
2. A separate narrative response must be made to each and every Question, and Subpart(s) of each Question, set forth in this Information Request.
3. Precede each narrative response with the number of the Question (or Subpart[s]) and the Question (or Subpart[s]) to which it corresponds.

4. For each and every Question contained herein, identify each of the documents consulted, examined, or referred to in the preparation of the answer or that contained information responsive to the Question and provide true and accurate copies of each of these documents. Organize the document copies according to the corresponding Question. For each document produced in your response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question (or Subpart[s]) to which the document corresponds.
5. For each question contained in this Information Request, if information or documents responsive to this Information Request are not in your possession, custody, or control, please identify the person(s) from whom such information or documents may be obtained.
6. Identify any person you think may be able to provide a more detailed or complete response to any Question contained herein, along with the additional information or documents that you think they may have.
7. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time, after submission of your response, that any portion of the submitted information is false or misrepresents the truth, or, although correct when made, is no longer true, you must notify EPA of this fact as soon as possible and provide a corrected response.
8. Provide responses to the best of your ability, even if the information sought was never written or if the written documents are no longer available. You should seek out responsive information from current and former employees/agents. Submission of cursory responses when other responsive information is available to you will be considered non-compliance with this Information Request.
9. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information requested, pursuant to Section 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. Section 9604(e)(7)(E) and (F).

If you make a claim of confidentiality for any of the information you submit to EPA, you must prove that claim. For each document or response you claim confidential, you must separately address the following points:

- a. The portions of the information alleged to be entitled to confidential treatment;

- b. The period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. Measures taken by you to guard against the undesired disclosure of the information to others;
- d. The extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. Pertinent confidentiality determinations, if any, by EPA or other Federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. Whether you assert that disclosure of the information would likely result in substantially harmful effects on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type, the word "confidential" on all confidential responses and any related confidential documents. Confidential portions of otherwise non-confidential documents, should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit your response so that all non-confidential information, including any redacted versions of documents are in one envelope and all materials for which you desire confidential treatment are in another envelope.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such a claim will be disclosed by EPA only to the extent permitted by CERCLA Section 104(e). If no such claim accompanies the information when it is received by EPA, then it may be made available to the public without further notice to you.

10. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 CFR 2.310(h), even if you assert that all or part of the information is confidential business information. Please be advised that EPA intends to disclose all responses to this Information Request to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Information Request. If you are

submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) calendar days of receiving this Information Request.

11. The disclosure of personnel and medical files, etc., which the general public may constitute as invasion of privacy, should be segregated from your responses, included on a separate sheet(s), and marked as "Personal Privacy Information."
12. If you have objections to some or all of the questions included with this Information Request, you are still required to respond to each of the questions.

DEFINITIONS

The following definitions shall apply to the following words as they appear herein. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or the Resource Conservation and Recovery Act (RCRA), in which case the statutory or regulatory definitions shall apply. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular Question or Questions as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

1. The terms "**and**" and "**or**" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "**any**" (e.g., as in "any documents"), shall mean "any and all."
3. The term "**arrangement**" shall mean every separate contract or other agreement between two or more persons, whether written or oral.
4. The term "**asset**" shall include the following: real estate, buildings or other improvements to real estate, equipment, vehicles, furniture, inventory, supplies, customer lists, accounts receivable, interest in insurance policies, interests in partnerships, corporations and unincorporated companies, securities, patents, stocks, bonds, and other tangible as well as intangible property.
5. The term "**document(s)**" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings/agreements and

the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, photograph, sound recording on any type of device, punch card, disc pack, tape or other type of memory generally associated with computers and data processing (including printouts and the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory), every copy of each document which is not an exact duplicate of a document which is produced, every copy of each document which has any writing on it (including figures, notations, annotations, or the like), drafts of documents, attachments to or enclosures with any document, and every document referred to in any other document.

6. The term **"Facility"** or **"Facilities"** shall mean industries operating in the vicinity of the Star Lake Superfund Site. The term shall include, but is not limited to, the Tank Farm (located at the northeast corner of Highway 136 and FM 366), Rectangular Ponds (located south of the Tank Farm and south of FM 366), Nine Above-Ground Storage Tanks (located north of FM 366 between Pine Street and Orchard Avenue and less than 500 feet east of the Tank Farm), Solid Waste Landfill (located northeast of the intersection of FM 366 and Orchard Avenue), Waste Water Treatment Plant (located at the southwest corner of Highway 136 and FM 366), Petrochemical Plant (located at the southwest corner of the intersection of FM 366 and Hogaboom Road), Chemical Plant (located at the southeast corner of Hogaboom Road and FM 366), and Industrial Gas Plant (located northeast of the corner of Hogaboom Road and Wilson Avenue).
7. The term **"hazardous material"** shall mean any hazardous substances, pollutants or contaminants, and hazardous wastes, as defined below.
8. The term **"hazardous substance"** shall have the same definition as that contained in Subsection 101(14) of CERCLA, 42 U.S.C. § 9601(14), and includes any mixtures of such hazardous substances with any other substances.
9. The term **"hazardous waste"** shall have the same definition as that contained in Subsection 1004(5) of RCRA, 42 U.S.C. § 6903(5), and 40 CFR Part 261.
10. The term **"identify"** shall mean, with respect to a natural person, to set forth the person's name, present or last known business, present or last known job (including job title and position), and personal addresses and telephone numbers.
11. The term **"identify"** shall mean, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g. corporation [including state of incorporation], partnership, etc.), organization, if any, a brief

description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist.

12. The term **"identify"** shall mean, with respect to a document, to provide the type of document. This information includes the document's customary business description, its date, its number (e.g., invoice or purchase order number), if any, subject matter, the identity of the author (including the addressor and the addressee and/or recipient), and the present location of such document.
13. The term **"identify"** shall mean, with respect to a piece of real property or property interest, to provide the legal description which appears in the county property records office, or in the equivalent office which records real property transactions for the area which includes the real property in question.
14. The term **"material(s)"** shall mean any and all objects, goods, substances, or matter of any kind including, but not limited to, wastes.
15. The term **"operator"** shall mean those persons who once owned or operated the facility from which hazardous substances were released into the Site..
16. The term **"owner"** shall mean those persons who owned the facility from which hazardous substances were released into the Site.
17. The term **"person"** shall have the same definition as in Subsection 101(21) of CERCLA, 42 U.S.C. § 9601(21), and shall include any individual, firm, unincorporated association, partnership, corporation, trust, consortium, joint venture, commercial entity, United States government, State and political subdivision of a State, municipality, commission, any interstate body, or other entity.
18. The terms **"pollutant"** or **"contaminant,"** shall have the same definition as that contained in Subsection 101(33) of CERCLA, 42 U.S.C. § 9601(33), and includes any mixtures of such pollutants and contaminants with any other substances. The term shall include, but not be limited to, any element, substance, compound, or mixture. The term shall also include disease-causing agents which after release into the environment will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunction in reproduction), or physical deformations.
19. The term **"property interest"** shall mean any interest in property including, but not limited to, any ownership interest, an easement, a deed, a lease, a mining claim, any interest in the rental of property, any interest in a corporation that owns or rents or owned or rented property, and any interest as either the trustee or beneficiary of a trust that owns

or rents, or owned or rented property.

20. The term **"real estate"** shall mean and include, but not be limited to, the following: land, buildings, homes, dwelling places, condominiums, cooperative apartments, offices or commercial buildings. The term includes real estate located outside of the United States.
21. The term **"release"** has the same definition as that contained in Subsection 101(22) of CERCLA, 42 U.S.C. § 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment.
22. The term **"Site"** shall mean and include the Star Lake Superfund Site, which includes the Star Lake Canal, Jefferson Canal², and Molasses Bayou.
- ~~23. The term **"solid waste"** shall have the same definition as that contained in Subsection 1004(27) of RCRA, 42 U.S.C. § 6903(27), and 40 CFR Part 261.~~
24. The terms **"transaction"** or **"transact"** shall mean any sale, transfer, giving, delivery, change in ownership, or change in possession.
25. The terms **"you"** or **"Respondent"** shall mean the addressee of this Request; including, the addressee's officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents.

QUESTIONS

Following are the Questions. Please refer to the definitions for the words as they appear in this Information Request.

1. Identify all parent corporations and all subsidiaries of the Respondent, KMG-Bernuth, Inc.
2. Provide Articles of Incorporation (including any amendments thereto), Certificates of Authority (including any amendments thereto), list of corporate officers, date of incorporation and state of incorporation for Respondent, KMG-Bernuth, Inc.
3. Provide corporate history of Respondent, KMG-Bernuth, Inc. including, but not limited to, mergers with other corporations, acquisitions of other corporations and name changes of Respondent, KMG-Bernuth, Inc., since its date of incorporation.

²The Star Lake Canal is also known as the Defense Plant Corporation Canal, the Neches Butane Outfall Canal, the Neches Butane Products Company Outfall Canal, and the Texaco Chemical Outfall Canal. The Jefferson Canal is also known as the Texaco Chemical Company Outfall Canal, the Jefferson County Canal, the Star Lake Outfall Canal, and the Texaco Chemical Company Stormwater Canal.

4. Identify any and all ties, including but not limited to mergers, acquisitions, name changes and corporate history transactions, that Respondent, KMG-Bernuth, Inc., has or had with the following businesses:

Dayburn Chemical Company
Sonford Chemical Company
Harwin Interests, Inc.
QED Laboratories, Inc.
KMG Services Corp.
KMG Services, Inc.

5. Identify any and all business transactions, including but not limited to contracts, sales and/or purchases, and assumptions of liability, that Respondent, KMG-Bernuth, Inc., has or had with the following businesses:

Dayburn Chemical Company
Sonford Chemical Company
Harwin Interests, Inc.
QED Laboratories, Inc.
KMG Services Corp.
KMG Services, Inc.

6. Identify any and all ties, including but not limited to corporate/officer positions, sales and/or purchases, contracts and assumptions of liability, that Respondent, KMG-Bernuth, Inc., has or had with David B. Hatcher and/or David L. Hatcher.

ENCLOSURE B
PARTIES RECEIVING INFORMATION REQUESTS
STAR LAKE SUPERFUND SITE
JEFFERSON COUNTY, TEXAS
FEBRUARY 13, 2003

American Cyanamid Company
Five Giralda Farms
Madison, New Jersey 07940

Prentice Hall Corporate Systems
Registered Agent for American Cyanamid Company
800 Brazos
Austin, TX 78701

Ameripol Synpol Corporation
1215 Main Street
Port Neches, TX 77651-3038

Randy Beskow
Registered Agent for Ameripol Synpol Corporation
1215 Main Street
Port Neches, TX 77651-3038

The Uniroyal Goodrich Tire Corporation
280 Park Avenue
New York, NY 10017-1216

Capitol Commerce Reporter, Inc.
Registered Agent for The Uniroyal Goodrich Tire Corporation
1301 South Interstate Highway 35, Suite 100
Austin, TX 78741

Calabrian Chemicals Corporation (Chemall, Inc.)
5500 Highway 366
Port Neches, TX 77651-6300

Lance Fox
Registered Agent for Calabrian Chemicals Corporation (Chemall, Inc.)
470 Orleans Street
Beaumont, TX 77701

Huntsman Petrochemical Corporation
6001 Highway 366
Port Neches, TX 77651-6304

C. T. Corporation System
Registered Agent for Huntsman Petrochemical Corporation
350 North St. Paul Street
Dallas, TX 75201

Jefferson County Drainage District Number 7
4401 9th Avenue
Port Arthur, TX 77640

Texaco, Inc.
1111 Bagby Street
Houston, TX 77002

Prentice Hall Corporation System, Inc.
Registered Agent for Texaco, Inc.
800 Brazos Street
Austin, TX 78701

Texaco Butadiene Company (Texas-U.S. Chemical Company International)
P.O. Box 1404
Houston, Texas 77251

J. Frank Kinsel
Registered Agent for Texaco Butadiene Company (Texas-U.S. Chemical Company International)
1111 Rusk Street
Houston, TX 77002